

Congress of the United States
Washington, DC 20515

April 1, 2022

The Honorable Kathy Hochul
Governor of New York State
New York State Capitol
Albany, NY 12224

Dear Governor Hochul,

We write to you today urging you to take action to facilitate fiber deployment in all rural areas of New York State and repeal the New York State fiber fee. As you have often stated, access to high-speed broadband is a necessity for all New Yorkers. We could not agree more, especially for those living in our state's rural communities. Unfortunately, current New York State law runs counter to your often stated goal of closing the digital divide.

Implemented in the 2019-2020 New York State Budget, a provision in the Consolidated Highway Laws of New York State provides authority to the New York State Department of Transportation (DOT) to impose fees on providers seeking to install, operate, or maintain fiber optic cable lines that run along, or pass through, State Rights-of-Way.¹ This provision originated largely without public consideration during the budget process. Following initial implementation of the fee, a bipartisan, bicameral group of nine state lawmakers from Upstate New York wrote then-Governor Cuomo requesting he terminate continued application of the fee.

This fee is discriminatory as it narrowly applies to fiber projects, but not to any other type of communications project utilizing other technologies, such as coaxial cable, along, or through, State-Rights-of-Way. As a result, we have called for the FCC to preempt this fee as its discrimination is a violation of Section 253 of the Communications Act of 1934.² Additionally, state lawmakers in both the Senate and Assembly have recognized the significant negative impact this policy has on build out throughout the state and have introduced legislation to repeal it.

We urge you to repeal this policy that disproportionately impacts rural fiber providers and rural residents in this year's state budget. You should be empowering our state's broadband providers to innovate, grow, and continue the drive towards connecting every New Yorker to high-speed internet at prices they can afford, not continuing to place bureaucratic financial burdens on them.

Sincerely,



Elise M. Stefanik
Member of Congress



Chris Jacobs
Member of Congress

¹ Article 2, Section 10, Subsection 24-e of the Consolidated Highway Laws of New York State

² 47 U.S. Code § 253(a)



Lee Zeldin
Member of Congress



Tom Reed
Member of Congress



Claudia Tenney
Member of Congress



Andrew R. Garbarino
Member of Congress



John Katko
Member of Congress



Nicole Malliotakis
Member of Congress